

REMARKS

Applicants thank the Examiner for acknowledging the claim for domestic priority.

Applicants also thank the Examiner for considering the references cited in the Information Disclosure Statement filed on April 8, 2003, as evidenced by the initialed Form PTO-1449.

Claims 1-34 are currently pending in this application. Reconsideration and allowance of all the rejected claims are respectfully requested in view of the following remarks.

A. **REJECTION UNDER 35 U.S.C. §102(a)**

Claims 1-3, 5-20 and 23-34 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Jack et al. (USP 5,719,396). Applicants respectfully traverse this rejection on the following basis.

Independent claims 1, 14, 18 and 32 recite the features of evaluating at least part of the data by inspecting at least one of said vehicle emission data, wherein the step of evaluating the vehicle emission data comprises one or more of checking for insufficient exhaust plume; checking for a calibration error; checking for improper optical component alignment; checking for inordinately low or high readings for one or more exhaust components; checking for large variations between different readings taken for the same exhaust plume; determining whether there is a second source of emissions present; determining whether vehicle speed criteria are met; determining whether vehicle acceleration criteria are met; and determining whether ambient or local conditions have significantly influenced the data collected; designating that the vehicle emission data either meets predetermined quality assurance criteria; or does not meet

predetermined quality assurance criteria; and if the vehicle emission data meets the predetermined quality assurance criteria, validating the vehicle emission data by inspecting the vehicle emission data, among other things. In an exemplary embodiment, data that does not meet the predetermined quality assurance levels may be flagged or removed (see the specification at page 23, lines 20-21). In another embodiment, an insufficient emission plume causes the resulting data to be designated as invalid, suspect, or the data may be separately designated as not having enough emission to perform measurements and thereby create emission data (see the specification at page 27, lines 13-16).

In contrast, Jack et al. is directed to a system that determines a first set of emission concentrations and a second set of emission concentrations, which are compared to emission concentrations standards (see Jack et al., col. 5, line 65 to col. 6, line 5). However, Jack et al. fails to teach or suggest first evaluating the vehicle emission data to determine whether sufficient criteria exist to go forward with determines the first and second sets of emission concentrations. Rather, Jack et al. discloses a system that starts monitoring when a vehicle passes through an infrared beam and causes trigger circuits to activate (see col. 7, lines 1-10). Upon activation of the trigger circuits, the system would go ahead and determine the emission concentration even if an insufficient exhaust plume were present. In contrast, the present invention first checks first evaluates the emission data for several criteria and then proceeds to process and validate the emission data if predetermined quality assurance criteria are met.

Since Jack et al. neither discloses nor suggests the invention claimed in independent claim 1 and its dependent claims 2, 3, and 5-13, or the invention claimed in independent claim 14 and its dependent claims 15-17, or the invention claimed in independent claim 18 and its dependent claims 19, 20, and 23-31, or the invention claimed in independent claim 32 and its dependent claims 33 and 34, these claims clearly are not anticipated by Jack et al. For the foregoing reason, reconsideration and allowance of these claims are respectfully requested.

B. REJECTIONS UNDER 35 U.S.C. §103

Claims 4, 21 and 22 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Jack *et al.* (USP 5,719,396) in view of Bishop *et al.* (USP 5,210,702). Applicants respectfully traverse this rejection on the following basis.

Claims 4, 21 and 22 depend from corresponding ones of independent claims 1 and 18 and therefore include the features recited in these independent claims. The Examiner acknowledges that Jack et al. is deficient because it fails to disclose matching vehicle identification data with the appropriate vehicle emission data (see page 4 of the Office Action dated May 8, 2003). Bishop et al. also fails to disclose the feature first evaluating the vehicle emission data to determine whether sufficient criteria exist to go forward with determining emission concentrations. As a result, Applicants respectfully submit that Jack et al. and Bishop et al. are deficient, both alone and in combination. In view of the foregoing deficiencies, Applicants respectfully submit that the independent claims are allowable over Jack *et al.* in view of Bishop *et al.* and that claims 4, 21 and 22 are allowable at least by virtue of their dependency.

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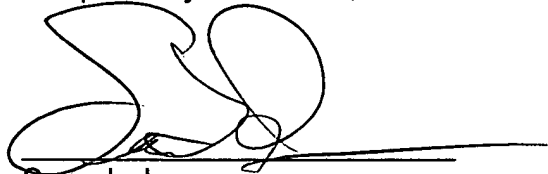
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Reply and Amendment Under 37 C.F.R. §1.111

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,



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